

EXHIBIT 5

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

1 RACHEL BANKS KUPCHO, individually and on
2 behalf of all others similarly situated,

3 Plaintiff,

4 v.

5 FACEBOOK, INC., a Delaware corporation
6 headquartered in California,

7 Defendant.

8 Case No. 4:20-cv-08815-JSW

9 **STIPULATION AND [PROPOSED]
10 ORDER TO STAY**

11 Hon. Jeffrey S. White

1 WHEREAS, six putative class action lawsuits¹ have been filed against defendant
 2 Facebook, Inc. in this District in recent weeks alleging violations of Section 2 of Sherman Act,
 3 15 U.S.C. § 2;

4 WHEREAS, four of these lawsuits, including this case, are currently the subject of
 5 contested motions pending before Judge Freeman to consider whether the cases should be related
 6 to *Reveal Chat Holdco, LLC v. Facebook, Inc.*, No. 5:20-cv-00363-BLF;

7 WHEREAS, regardless of the outcome of Facebook's pending motion to relate the six
 8 putative class action lawsuits that have been filed against Facebook to *Reveal Chat*, those six
 9 cases themselves are likely to be the subject of motions to relate to one another;

10 WHEREAS, should Judge Freeman grant the pending motions to relate the cases, the
 11 court will need to determine the manner in which these cases will proceed;

12 WHEREAS, regardless of whether Judge Freeman grants the pending motions to relate
 13 the cases, one or more courts in this District may need to decide issues around interim class
 14 counsel and/or whether to consolidate the cases;

15 WHEREAS, moving forward with responsive pleadings and other matters in this case
 16 may impose an unnecessary burden on the Court and parties until the threshold issues of case
 17 administration are resolved;

18 ACCORDINGLY, pursuant to Civil Local Rules 6-1 and 7-12, defendant Facebook, Inc.
 19 and plaintiff Rachel Banks Kupcho, by and through their respective counsel, hereby stipulate and
 20 agree that good cause exists and that Facebook's time to answer or otherwise respond to the
 21 Complaint is stayed until the earlier of (1) the date when the court overseeing any related or
 22 coordinated proceedings orders a response, or (2) the date on which Facebook files its response
 23 to the Complaints in any of the following cases: *Klein v. Facebook, Inc.*, No. 5:20-cv-08570-
 24

25 ¹ In addition to this case, the lawsuits are: *Klein v. Facebook, Inc.*, No. 5:20-cv-08570-LHK;
 26 *Sherman v. Facebook, Inc.*, No. 3:20-cv-08721-LB; *Dames v. Facebook, Inc.*, No. 3:20-cv-
 27 08817-TSH; *Steinberg v. Facebook, Inc.*, No. 3:20-cv-09130-SK; and *Affilious, Inc. v. Facebook,*
 28 *Inc.*, No. 4:20-cv-09217-KAW.

1 LHK; *Sherman v. Facebook, Inc.*, No. 3:20-cv-08721-LB; *Dames v. Facebook, Inc.*, No. 3:20-
2 cv-08817-TSH; *Steinberg v. Facebook, Inc.*, No. 3:20-cv-09130-SK; and *Affilious, Inc. v.*
3 *Facebook, Inc.*, No. 4:20-cv-09217-KAW; or any subsequently-filed case in this District
4 asserting federal antitrust claims against Facebook on behalf of Facebook users that either party
5 in this case seeks to relate to any of the above-referenced cases.

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11 Dated: December 23, 2020

WILMER CUTLER PICKERING HALE
AND DORR LLP

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By: /s/ Sonal N. Mehta

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SONAL N. MEHTA

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Attorney for Defendant
Facebook, Inc.

16

17 Dated: December 23, 2020

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

18

By: /s/ W. Joseph Bruckner

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18 *Attorney for Plaintiff*
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1 **[PROPOSED] ORDER**

2 PURSUANT TO STIPULATION, IT IS HEREBY ORDERED: Facebook's time to
3 answer or otherwise respond to the Complaint is STAYED until and including the earlier of (1)
4 the date when the court overseeing any related or coordinated proceedings orders a response, or
5 (2) the date on which Facebook files its response to the Complaints in any of the following cases:
6 *Klein v. Facebook, Inc.*, No. 5:20-cv-08570-LHK; *Sherman v. Facebook, Inc.*, No. 3:20-cv-
7 08721-LB; *Dames v. Facebook, Inc.*, No. 3:20-cv-08817-TSH; *Steinberg v. Facebook, Inc.*, No.
8 3:20-cv-09130-SK; and *Affilious, Inc. v. Facebook, Inc.*, No. 4:20-cv-09217-KAW; or any
9 subsequently-filed case in this District asserting federal antitrust claims against Facebook on
10 behalf of Facebook users that either party in this case seeks to relate to any of the above-
11 referenced cases.

12 DATED: January 4, 2021

13 By:

14 Hon. Jeffrey S. White

15 United States District Judge

16 Submitted by:

17 WILMER CUTLER PICKERING HALE AND DORR LLP

18 By: /s/ Sonal N. Mehta

19 Attorney for Facebook, Inc.